

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-3476

United States of America,

Appellee,

v.

Michael Clauff,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: May 21, 2002

Filed: May 22, 2002

Before BOWMAN, LOKEN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Michael Clauff pleaded guilty to possessing with intent to distribute 50 grams or more of a mixture or substance containing methamphetamine, in violation of 21 U.S.C. § 841(a)(1). The district court¹ sentenced Clauff to 80 months imprisonment and 4 years supervised release. On appeal, counsel has moved to withdraw under Anders v. California, 386 U.S. 738 (1967), and has filed a brief arguing that Clauff's criminal history should have been a Category III instead of a Category IV.

¹The HONORABLE LYLE E. STROM, United States District Judge for the District of Nebraska.

The district court did not plainly err in finding Clauff had a Category IV criminal history. See United States v. Evans, 285 F.3d 664, 675-76 (8th Cir. 2002) (standard of review). Clauff did not object to the inclusion of the underlying convictions in the presentence report. See United States v. LaRoche, 83 F.3d 958, 959 (8th Cir. 1996) (per curiam). Moreover, the criminal history points assessed were appropriate. See U.S.S.G. § 4A1.1. Further, following our independent review, see Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues.

Accordingly, we grant counsel's motion to withdraw, and we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.